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Robert R. Corbin

January 17, 1980

INTERAGENCY

Mr. Sheldon B. Elman
Assistant Director
Division of Administration
Arizona Department of Health Services
1740 West Adams
Phoenix, AZ 85007

Re: I80-005 (R78-131)

Dear Mr. Elman:

We are writing in response to your letter of May 4, 1978, wherein you asked for our opinion regarding the ability of non-state health department programs to use federal funds which are in the custody of the Arizona Department of Health Services (DHS) as matching funds to state-appropriated funds in order to satisfy matching requirements of the state¹/ and/or federal governments.

As we understand it, state funds which have been appropriated to fund these programs cannot be expended unless the programs supply matching funds. Your concern is whether federal funds, earmarked for these programs but in the state's custody, can be used for this purpose. It is our opinion that since DHS is merely a conduit through which these funds pass to these programs, the funds in question can be used by the programs for matching funds.

You point out in your letter that the federal funds were formerly provided directly to the local programs and that the decision by the federal government to include such funds in the state allotment was made to simplify its administration of such funds. Custodial funds such as these are not state monies

1. See, e.g., Ch. 172, Subdivision 26, Laws 1979.

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subject to appropriation by the Legislature. Navajo Tribe v. Az. Dept. of Admin., 111 Ariz. 279, 528 P.2d 623 (1974). Since these federal funds are independent of state-appropriated funds, they qualify for use as matching funds.

Sincerely,



BOB CORBIN
Attorney General

BC/mm